

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSE TRUJILLO,

Plaintiff,

v.

PAUL GOGNA, et al.,

Defendants.

Case No. 1:22-cv-00707-JLT-SAB

ORDER GRANTING EXTENSION OF
TIME TO COMPLETE SERVICE AND
SETTING SCHEDULING CONFERENCE

(ECF Nos. 16, 18)

On June 10, 2022, Plaintiff Jose Trujillo (“Plaintiff”) initiated this litigation against Defendants Paul Gogna doing business as Prince Food & Gas (“Gogna”); Huda-Cal. Properties, LLC; and Akbar Ali Huda. (ECF No. 1.) On January 10, 2023, Plaintiff filed a motion for default judgment against all Defendants. (ECF No. 13.) On March 1, 2023, the Court issued findings and recommendations to deny Plaintiff’s motion. (ECF No. 16.) The Court recommended denial of the motion as to Defendant Gogna due to improper service; meanwhile, the Court found service was properly effected on Defendants Huda-Cal. Properties, LLC and Akbar Ali Huda, but recommended denial of Plaintiff’s motion based on the finding that Plaintiff failed to establish that Defendants Huda-Cal. Properties, LLC or Akbar Ali Huda own, lease, or operate the Facility so as to be properly named defendants in this action. (ECF No. 16 at 15-18, 25.) On March 27, 2023, the District Judge adopted the findings and recommendations in full and referred the matter to this Court for further proceedings. (ECF No. 16.)

1 It has come to the Court's attention that no scheduling conference is currently set in this
2 matter. In light of the finding that service was not properly effected on Defendant Gogna, the
3 Court shall grant Plaintiff a further extension of time to complete service under Federal Rule of
4 Civil Procedure 4(m).¹ As to Defendants Huda-Cal. Properties, LLC and Akbar Ali Huda,
5 should Plaintiff seek to amend the pleadings or dismiss portions of the complaint, he must do so
6 prior to the expiration of the new service deadline. If Plaintiff does not seek to amend the
7 complaint to cure the deficiencies noted in the March 27, 2023 findings and recommendations
8 (ECF No. 18), the Court will recommend dismissal of Defendants Huda-Cal. Properties, LLC
9 and Akbar Ali Huda. The Court shall also set a scheduling conference for this matter.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Plaintiff is granted an extension of time to complete service pursuant to Fed. R.
12 Civ. P. 4(m);
- 13 2. The deadline for Plaintiff to complete service on Defendant Paul Gogna doing
14 business as Prince Food & Gas, shall be extended to **March 22, 2024**;
- 15 3. Plaintiff shall either seek leave to amend the complaint to cure the defects with
16 respect to Defendants Huda-Cal. Properties, LLC and Akbar Ali Huda, or dismiss
17 these Defendants by **March 22, 2024**;
- 18 4. An initial scheduling conference is SET for **April 25, 2024**, at **1:30 p.m.** in
19 **Courtroom 9**; and

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27 ¹ Rule 4(m) provides that "If a defendant is not served within 90 days after the complaint is filed, the court—on
28 motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant
or order that service be made within a specified time." Fed. R. Civ. P. 4(m). "But if the plaintiff shows good cause
for the failure, the court must extend the time for service for an appropriate period." Id.

5. The parties shall file a joint scheduling report **seven (7) days** prior to the scheduling conference.

IT IS SO ORDERED.

Dated: **February 5, 2024**


UNITED STATES MAGISTRATE JUDGE